Court No.1

Civil Misc. Writ Petition No. 4093 (S/S) of 2001
(Old No. 23915 of 1994).

Prem Ballabh Shakta …… Petitioner.

Versus

Chairman, Kumaon Mandal Vikas
Nigam, Ltd., Nainital & another …… Respondent.

Hon'ble P.C. Verma, J.

This writ petition has been filed by the petitioner challenging the termination order dated 05.05.1994. The petitioner was appointed as Marker, Rosin & Turpentine Unit-Champawat, an Unit of Kumaon Mandal Vikas Nigam ltd., Nainital. Initially he was kept as daily wager in the year 1978 then he was appointed in the year 1980. The petitioner was given pay scale by order dated 15.8.1980 and after completion of probation period he was made permanent by order dated 10.10.1981 counting his past services as probation period. He was transferred on this post various places. The services of the petitioner have been terminated by the appointing authority by saying that the services of the petitioner no more required and gave a notice terminating the services of the petitioner and require the petitioner to receive three months' salary. Requiring the petitioner to receive three months' salary itself indicate that the petitioner was a permanent employee. The rule empowering the termination of services of the permanent employee after giving three months' notice have been held ultra vires in the case Central Inland Water Transport Corporation Ltd. versus Brijo Nath Ganguly, A.I.R. 1991 (S.C) 101.

Thus, the impugned order cannot be sustained in the eye of law. Therefore, the writ petition is allowed. The order of termination dated 05.05.1994 is quashed. The petitioner shall be paid only half of the back wages. However, it is open for the respondents to proceed according to law.

10.9.2001 **(P.C. Verma, J.)**
P. Singh